

01/28/14

Freedom of Information and Privacy Acts request:

To: Federal Bureau of Investigation
Record/Information Dissemination Section

This letter is a cover letter for the 5 here-enclosed formal requests under the U.S. Freedom of Information and Privacy Acts (5 U.S.C. §552/552a) and the regulations promulgated thereunder. As the information contained within this cover letter is crucial to the processing of the here-enclosed requests, please ensure that a copy of this cover letter is provided to all personnel involved in the processing of these requests.

REQUESTER INFORMATION

Name: [REDACTED]
Affiliation: Investigative Reporter

b6

Address: [REDACTED]
[REDACTED]

Email: [REDACTED]
Phone: [REDACTED]

Purpose of Request: To write and report a news story for publication by a news organization

RECORDS SOUGHT

I request disclosure of any and all records that were prepared, received, transmitted, collected and/or maintained by the FBI, the Terrorist Screening Center, the National Joint Terrorism Task Force, or any Joint Terrorism Task Force relating or referring to deceased individual *Pete Seeger*.

Date of Birth: 03 May 1919
Place of Birth: Manhattan, New York
Date of Death: 27 January 2014
Place of Death: New York

ADDITIONAL DESCRIPTIVE INFORMATION

0 5 FEB 2014

EXPLANATION OF EXEMPTIONS

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information (A) could reasonably be expected to interfere with enforcement proceedings, (B) would deprive a person of a right to a fair trial or an impartial adjudication, (C) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (D) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, (E) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or (F) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.

The requested records involve a breaking news story of general public interest. Countless publications have shown an interest in Seeger, his death, and the role of the American government and intelligence community in the targeting, surveillance and marginalization of Seeger beginning more than half a century ago. Seeger's dissent and the role the federal government has played in marginalizing him has also been the subject of a wide-range of news reports that have alleged the federal government continues to engage in this type of activity and targets and surveils individuals who are outspoken about their beliefs. Reports on Pete Seeger and his death have appeared in a wide variety of news outlets including the *New York Times*, the *Los Angeles Times*, the *Washington Post*, *Rolling Stone*, and many other major publications. A Google search² for "Pete Seeger" brings up 254,000,000 hits on the search engine with many articles published as recently as today.³ A Google search for "Pete Seeger Death" brings up 25,400,000 articles.⁴

As demonstrated by the articles, there has been widespread questioning of the federal government's activities. Because of the American government and intelligence community's roles in Seeger's marginalization, the records requested are of general public interest.

2. *The subject matter of the request involves possible questions about the government's integrity, which affect public confidence.*

As noted above, the U.S. government had targeted Seeger, placed him under surveillance and marginalized him for decades due to his political beliefs.

3. *Expedited processing is also appropriate because of the existence of a compelling need to inform the public*

Although expedited processing is clearly warranted under 28 C.F.R. 16.5(d)(1)(iv), it is alternatively proper under 28 C.F.R. 16.5(d)(1)(i) which provides for expedited processing when there exists "[a]n urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information."

I am a full-time member of the news media and as a contributor to Al Jazeera, an Editor at Large for the online publication, The Public Record, and a widely published independent investigative reporter who has had his journalism published in dozens of domestic and international publications, I am a person primarily engaged in disseminating information.

4. *Certification pursuant to 28 C.F.R. 16.5(d)(3)*

² Performed on 28 January 2014.

³

https://www.google.com/search?q=pete+seeger&oq=pete+seeger&aqs=chrome.0.69i59j0j69i60j0l3.1611j0j4&sourceid=chrome&espv=210&es_sm=91&ie=UTF-8

⁴

https://www.google.com/search?q=pete+seeger&oq=pete+seeger&aqs=chrome.0.69i59j0j69i60j0l3.1611j0j4&sourceid=chrome&espv=210&es_sm=91&ie=UTF-8#q=pete+seeger+death

I certify the foregoing to be true and correct to the best of my knowledge and belief.


Jason Leopold

1) Request for FBI Headquarters, Field Office, and Task Force Office Searches:

I request that a complete and thorough search for any and all records relating or referring to the subject of my request be conducted in any and all indices, filing systems, and locations maintained by FBI headquarters, any and all FBI field offices and/or resident agencies, and any and all FBI and/or Joint task force offices.

2) Request for Main File and Cross-Reference Searches:

I request that a search of all main file *and cross-reference* indices, filing systems, and locations be conducted for any and all records relating or referring to the subject of my requests. *That my requested cross-reference searches be conducted is not only a requirement of FOIA, it is also the position of FBI FOIPA Public Liaison Officer Dennis J. Argall. Please refer any questions on this matter to Mr. Argall.*

Please note, the present request *does not* pertain to animal rights/environmental protection matters nor to my animal rights/environmental protection FOIPA project. Please *do not limit* cross-reference searches for these requests to animal rights/environmental protection matters. Please conduct full cross-reference searches for these requests. Please contact me for any clarification on this point.

3) Instructions Regarding "Records":

For both main file and cross-reference searches, my requests include, but are not limited to, documents, reports, memoranda, letters, electronic files, "See Also" files, "Do Not File" files, "Official & Confidential" files, numbered and lettered subfiles, 1A envelopes, enclosures behind files (EBF's), "Personal & Confidential" files, restricted files, photographs, audio tapes & videotapes, "JUNE" files, "Obscene" Files, "Subversive" Indexes, Bulky Exhibits, control files, mail covers, trash covers; and any index citations relating to the subject of my request or referencing the subject of my requests ("see also") in other files.

When processing these requests, please note the D.C. Circuit has previously held that agencies have a duty to construe the subject material of FOIA requests liberally to ensure responsive records are not overlooked. See *Nation Magazine, Washington Bureau v. U.S. Customs Service*, 71 F.3d 885, 890 (D.C. Cir. 1995). Accordingly, you are hereby instructed that the term "record" includes, but is not limited to: 1) all email communications to or from any individual within your agency; 2) memoranda; 3) inter-agency communications; 4) sound recordings; 5) tape

recordings; 6) video or film recordings; 7) photographs; 8) notes; 9) notebooks; 10) indices; 11) jottings; 12) message slips; 13) letters or correspondence; 14) telexes; 15) telegrams; 16) facsimile transmissions; 17) statements; 18) policies; 19) manuals or binders; 20) books; 21) handbooks; 22) business records; 23) personnel records; 24) ledgers; 25) notices; 26) warnings; 27) affidavits; 28) declarations under penalty of perjury; 29) unsworn statements; 30) reports; 31) diaries; or 32) calendars, regardless of whether they are handwritten, printed, typed, mechanically or electronically recorded or reproduced on any medium capable of conveying an image, such as paper, CDs, DVDs, or diskettes.

Furthermore, in line with the guidance issued by the Department of Justice ("DOJ") on 9 September 2008 to all federal agencies with records subject to FOIA, agency records that are currently in the possession of a U.S. Government contractor for purposes of records management remain subject to FOIA. Please ensure that your searches comply with this clarification on the effect of Section 9 of the OPEN Government Act of 2007 of the definition of a "record" for purposes of FOIA. In addition, the FBI should not interpret this request to exclude records sent to outside third parties, nor should the FBI interpret this request to exclude records originating with outside third parties.

4) Instructions Regarding "Leads":

As required by the relevant case law, the FBI is required to follow any leads it discovers during the conduct of its searches and perform additional searches when said leads indicate that records may be located in another FBI system. Failure to follow clear leads is a violation of FOIA.

5) Request for 190 Files, 197 Files, and (-0, -2, -5) Control Files:

For both main file and cross-reference searches, my request includes, but is not limited to, 190 files, 197 files, and (-0, -2, -5) control files.

6) Request for Text Searches of the ECF:

For both main file and cross-reference searches, I request that text searches of the ECF (Electronic Case File) be conducted.⁵

⁵ As stated by FBI Record/Information Dissemination Section Chief, David M. Hardy, in his 31 January 2013 Declaration to the U. S. District Court for the District of Columbia (Case 1:12-cv-01660-RMC), "Because the decision to index names in a specific document can vary from document to document, the text search [of the ECF] provide[s] a more comprehensive search of the CRS."

7) Request for ELSUR, MISUR, and FISUR Searches:

For both main file and cross-reference searches, I request that searches of all electronic, microphone, and physical surveillance indices, filing systems, and locations for any and all records relating or referring to the subject of my request be conducted. These searches should include, but not be limited to, searches for "overhears."⁶

8) Request for Electronic and Paper/Manual Searches:

For both main file and cross-reference searches, I request that searches of all electronic and paper/manual indices, filing systems, and locations for any and all records relating or referring to the subject of my request be conducted.

9) Request for Searches of the FBI's administrative records system:

For both main file and cross-reference searches, I request that searches of the FBI's administrative records system for any and all records relating or referring to the subject of my request be conducted.

10) Request for Searches of Laboratory Records:

For both main file and cross-reference searches, I request that searches of all laboratory indices, filing systems, and locations for any and all records relating or referring to the subject of my request be conducted. My request includes, but is not limited to, searches for laboratory records.

11) Request for Confidential Searches:

For both main file and cross-reference searches, I request that searches of all confidential indices, filing systems, and locations for any and all records relating or referring to the subject of my request be conducted.

12) Request for Searches of the Investigative Data Warehouse:

⁶ As stated by FBI Record/Information Dissemination Section Chief, David M. Hardy, in his 12 September 2013 "Fourth Declaration of David M. Hardy" to the U. S. District Court for the District of Columbia (Case 1:12-cv-01660-RMC), "overhears" are records pertaining to "all individuals mentioned during monitored conversations[.]"

For both main file and cross-reference searches, I request that searches of any and all records systems and indices pertaining to the FBI's Investigative Data Warehouse for any and all records relating or referring to the subject of my request be conducted.

13) Request for Searches of Seized Asset Information:

For both main file and cross-reference searches, I request that searches of any and all records systems and indices pertaining to seized asset information for any and all records relating or referring to the subject of my request be conducted.

14) Request for Searches of the FBI's "Bureau Mailing Lists" records system:

For both main file and cross-reference searches, I request that searches of the FBI's "Bureau Mailing lists" records system for any and all records relating or referring to the subject of my request be conducted.

15) Request for Searches of the "Special File Room":

For both main file and cross-reference searches, I request that searches of the "Special File Room" for any and all records relating or referring to the subject of my request be conducted.

16) Request for Searches of Guardian and eGuardian:

I request that the FBI search the Guardian Threat Tracking System and the eGuardian Terrorist Threat Reporting and Assessment System for records relating or referring to the subject of my request.

17) Request for Searches of CORE:

I request that the FBI search the CORE system for records relating or referring to the subject of my request.

18) Request for searches of PRISM, BLARNEY, Upstream, and, Fairview:

I request that the FBI search the PRISM, BLARNEY, Upstream, and Fairview systems for records relating or referring to the subject of my request.

19) Request for Searches for CART Records:

I request that the FBI search CART notes, reports, and other records relating or referring to the subject of my request.

20) Request for Email Searches:

I request searches of/for emails relating or referring to the subject of my request.

21) Request for Additional Filing Systems, Indices, and Locations Searches:

For both main file and cross-reference searches, please do not limit searches to the UNI (Universal Index), but please also search the ICM (Investigative Case Management) and ECF (Electronic Case File) indices, filing systems, and locations.

Indeed, for both main file and cross-reference searches, please search *all* of your indices, filing systems, and locations, including those I have not specified by name and those of which I may not be aware.

22) Request regarding Photographs and other Visual Materials:

I request that any photographs or other visual materials responsive to my requests be released to me in their original or comparable forms, quality, and resolution. For example, if a photograph was taken digitally, or if the FBI maintains a photograph digitally, I request disclosure of the original digital image file, not a reduced resolution version of that image file nor a printout and scan of that image file. Likewise, if a photograph was originally taken as a color photograph, I request disclosure of that photograph as a color image, not a black and white image. Please contact me for any clarification on this point.

23) Request for Ticklers:

For both main file and cross-reference searches, I request that searches for any and all "ticklers" relating or referring to the subjects of my requests be conducted.⁷

⁷ As articulated in *Campbell v. United States DOJ*, 164 F.3d 20, 27 n.1 (1998), "A 'tickler' is a duplicate [FBI] file containing copies of documents, usually kept by a supervisor. Such files can be of interest to a FOIA requester because they could contain documents that failed to survive in other filing systems or that include unique annotations."

24) Request for Duplicate Pages:

I request disclosure of any and all supposedly "duplicate" pages. Scholars analyze records not only for the information available on any given page, but also for the relationships between that information and information on pages surrounding it. As such, though certain pages may have been previously released to me, the existence of those pages within new context renders them functionally new pages. As such, the only way to properly analyze released information is to analyze that information within its proper context. Therefore, I request disclosure of all "duplicate" pages.

25) Instructions regarding Scope and Breadth of Requests:

Please interpret the present request broadly. The FBI is instructed to interpret the scope of this request in the most liberal manner possible short of an interpretation that would lead to a conclusion that the request does not reasonably describe the records sought.

26) Exemptions and Segregability:

I call your attention to President Obama's 21 January 2009 Memorandum concerning the Freedom of Information Act, in which he states:

All agencies should adopt a presumption in favor of disclosure, in order to renew their commitment to the principles embodied in FOIA. [...] The presumption of disclosure should be applied to all decisions involving FOIA.⁸

In the same Memorandum, President Obama added that government information should not be kept confidential "merely because public officials might be embarrassed by disclosure, because errors and failures might be revealed, or because of speculative or abstract fears."

Finally, President Obama ordered that "The Freedom of Information Act should be administered with a clear presumption: In the case of doubt, openness prevails."

Nonetheless, if any responsive record or portion thereof is claimed to be exempt from production, FOIA/PA statutes provide that even if some of the requested material is properly exempt from mandatory disclosure, all segregable portions must be released. If documents are denied in part or in whole, please specify which exemption(s) is (are) claimed for each passage or whole document denied. Please provide a complete itemized inventory and a detailed factual justification of total or partial denial of documents. Specify the number of pages in each document and the total number of pages pertaining to this request. For "classified" material denied,

⁸ President Barack Obama, "Memorandum for the Heads of Executive Departments and Agencies, Subject: Freedom of Information Act," January 21, 2009; <http://www.whitehouse.gov/the_press_office/FreedomofInformationAct/>

please include the following information: the classification (confidential, secret or top secret); identity of the classifier; date or event for automatic declassification or classification review or downgrading; if applicable, identity of official authorizing extension of automatic declassification or review past six years; and, if applicable, the reason for extended classification beyond six years.

In excising material, please "black out" the material rather than "white out" or "cut out." I expect, as provided by FOIA, that the remaining non-exempt portions of documents will be released.

Please release all pages regardless of the extent of excising, even if all that remains are the stationery headings or administrative markings.

In addition, I ask that your agency exercise its discretion to release records which may be technically exempt, but where withholding serves no important public interest.

27) Additionally:

Please produce all records with administrative markings and pagination included. Please place any "missing" files pertaining to this request on "special locate" and advise me that you have done this.

Please send a memo (copy to me) to the appropriate units in your office to assure that no records related to this request are destroyed. Please advise of any destruction of records and include the date of and authority for such destruction.

28) Format:

I request that any releases stemming from the present request be provided to me in digital format (soft-copy) on a compact disk or other like media.

29) Regarding Previously Processed Files:

The present FOIPA requests is for new complete and thorough searches for any and all records relating or referring to the subject of my request. The release of previously processed records or files will not satisfy my request.

30) Regarding Destroyed Records:

If any records responsive or potentially responsive to my request have been destroyed, my request includes, but is not limited to, any and all records relating or

referring to the destruction of those records. This includes, but is not limited to, any and all records relating or referring to the events leading to the destruction of those records.

30) Fee Category and Request for a Waiver of Fees:

I am willing to pay any reasonable expenses associated with this request, however, as the purpose of the requested disclosure is in full conformity with the statutory requirements for a waiver of fees, I formally request such a waiver. I request a waiver of all costs pursuant to 5 U.S.C. §552(a)(4)(A)(iii) ("Documents shall be furnished without any charge ... if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."). Disclosure in this case meets the statutory criteria, and a fee waiver would fulfill Congress's legislative intent in amending FOIA. See *Judicial Watch, Inc. v. Rossotti*, 326 F.3d 1309, 1312 (D.C. Cir. 2003) ("Congress amended FOIA to ensure that it be 'liberally construed in favor of waivers for noncommercial requesters.'"). I incorporate by reference the explanation and attached materials in the above sections which demonstrates why the requested information is in the public interest.

As the legislative history of FOIA reveals, "It is critical that the phrase 'representative of the news media' be broadly interpreted if the act is to work as expected. ... In fact, any person or organization which regularly publishes or disseminates information to the public ... should qualify for waivers as a 'representative of the news media.'" 132 Cong. Rec. S14298 (daily ed. Sept. 30, 1986) (emphasis in original quotation); and 2) "A request by a reporter or other person affiliated with a newspaper, magazine, television or radio station, or other entity that is in the business of publishing or otherwise disseminating information to the public qualifies under this provision." 132 Cong. Rec. H9463 (Oct. 8, 1986) (emphasis in original quotation)). Therefore, in accordance with the Freedom of Information Act and relevant case law, I, Jason Leopold, should be considered a representative of the news media.

The Department of Justice provides a two-part test for determining whether a requestor is entitled to a waiver of fees. Records responsive to a request are to be furnished without charge if the requestor has demonstrated that "(i) Disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and (ii) Disclosure of the information is not primarily in the commercial interest of the requestor." 28 CFR 16.11(k). The DOJ regulations further require the consideration of the following factors in determining whether the requestor has met the first part of the test: the subject of the request; the informative value of the information to be disclosed; the contribution to an understanding of the subject by the public likely to result from disclosure; and the

significance of the contribution to public understanding. 28 CFR 16.11(k)(2). To determine whether the second part of the test is met, the DOJ regulations require consideration of the following factors: the existence and magnitude of a commercial interest; and the primary interest in disclosure. As explained below, my request clearly meets this two-part test, and is also the type of request, and I am the type of requestor, for which courts have held that waiver of fees is required under FOIA.

I. DISCLOSURE OF THE REQUESTED RECORDS IS IN THE PUBLIC INTEREST BECAUSE IT IS LIKELY TO CONTRIBUTE SIGNIFICANTLY TO THE PUBLIC UNDERSTANDING OF THE OPERATIONS AND ACTIVITIES OF THE GOVERNMENT.

A. The subject of the requested records concerns the operations and activities of the FBI and broader government. The subject of the requested records concerns identifiable operations and activities of the FBI and broader government, such as: US and possibly FBI involvement in surveillance of Seeger; US and possibly FBI provision of intelligence regarding Seeger; US and possibly FBI assistance in the prosecution of Seeger; US and possibly FBI monitoring of Seeger's activism and dissent; US and possibly FBI possible continued provision of intelligence gathering regarding Seeger.

B. The disclosure is likely to contribute to an understanding of government operations and activities because the disclosable portions of the requested records will be meaningfully informative about those operations and activities. The vast majority of disclosable information is not already in the public domain, in either a duplicative or a substantially identical form, and therefore the disclosure would add substantial new information to the public's understanding of issues including but not limited to: US and possibly FBI involvement in surveillance and marginalization of Seeger.

The overwhelming preponderance of records I need to conduct my reporting are in the possession of the FBI and not in the public domain.

C. The disclosure of the requested records will contribute to the increased understanding of a broad audience of persons interested in the subject, rather than merely my own individual understanding. I have the ability and intention to effectively convey information to the public.

As explained herein in more detail, the audience likely to be interested in the subject is broad, and includes, musicians, historians of modern American government, politics, culture, and national security; journalists reporting on American politics, government, national security, and society; civil liberties attorneys; and the general public.

The OPEN Government Act of 2007's definition of "a representative of the news media" is taken nearly verbatim from language used by the United States Court of

Appeals, District of Columbia Circuit in the court's 1989 FOIA fee waiver-oriented ruling in *National Security Archive v. Department of Defense*.⁹ As the court also relatedly found in *National Security Archive v. Department of Defense*, a requester need not already have published numerous works in order to qualify as a representative of the news media. The court found that the express "intention" to publish or disseminate analysis of requested documents amply satisfies the above noted requirement for journalists to "publish or disseminat[e] information to the public." *National Security Archive v. Department of Defense*, 880 F.2d 1386, (D.C. Cir., 1989). As noted above, I am currently working on popular articles involving significant analysis of records obtained through FOIPA requests to be written by me and fellow journalist Jason Leopold. Additionally, as detailed above, I have already publicly disseminated significant analysis of documents obtained through FOIPA requests. I have expressed a firm intention to continue disseminating significant analysis of documents obtained through FOIPA requests. And I have demonstrated my ability to continue disseminating significant analysis of documents obtained through FOIPA requests.

Therefore, in that I am "person or entity that gathers information of potential interest to the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience," I solidly meet the applicable definition of "a representative of the news media." As such, I have again more than satisfied the requirement for a fee waiver.¹⁰

D. The disclosure of the requested records is likely to contribute "significantly" to public understanding of government operations and activities because disclosure would enhance to a significant extent the public's understanding of the subject in

⁹ The language in *National Security Archive v. Department of Defense* reads, "A representative of the news media is, in essence, a person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn raw materials into a distinct work, and distributes that work to an audience." *National Security Archive v. Department of Defense*, 880 F.2d 1381, 1387 (D.C. Cir., 1989).

¹⁰ Though the courts have subsequently narrowed the applicability of the *National Security Archive v. Department of Defense* ruling in terms of requirements to qualify as a representative of the news media (most notably in *Judicial Watch, Inc. v. United States Department of Justice*), I still solidly satisfy even this narrowed understanding of "representative of the news media." In contrast to *Judicial Watch*, I have clearly demonstrated a firm intention to disseminate to the public my analysis of requested information. I have identified articles, an exhibit, and a book within which I firmly intend to, and in some cases already have, disseminated my analysis of requested information. I have identified other news media representative whom I have already fruitfully provided my analysis of requested information, and with whom I firmly intend to continue collaborating on future disseminations of requested information. Ultimately, in contrast to *Judicial Watch*, which the court found to "merely make available [] the requested information," I have established "a firm intention to disseminate" my analysis of the requested information. See *Judicial Watch, Inc. v. United States Department of Justice*, 185 F. Supp. 2d 54, 59 (D.D.C. 2002).

question as compared to the level of public understanding existing prior to the disclosure

III. CONCLUSION.

As demonstrated above, the disclosure of the requested records will significantly contribute to expanded public understanding of government operations. I have the intent and ability to disseminate this significant expansion of public understanding of government operations. The public interest in this significant expansion of public understanding of government operations far outweighs any commercial interest of my own in the requested release. Accordingly, my fee waiver request amply satisfies the rules of 28 C.F.R. 16.11(k). Legislative history and judicial authority emphatically support this determination. For these reasons, and based upon their extensive elaboration above, I request a full waiver of fees be granted. I will appeal any denial of my request for a waiver of fees to the Department of Justice Office of Information Policy, and to the courts if necessary.

Please do not hesitate to contact me if you have any questions concerning this request.

Thank you. I appreciate your time and attention to this matter.


Jason Leopold
Investigative Reporter

The New York Times

<http://nyti.ms/1ookw4L>

MUSIC

Pete Seeger, Songwriter and Champion of Folk Music, Dies at 94

By JON PARELES JAN. 28, 2014

Pete Seeger, the singer, folk-song collector and songwriter who spearheaded an American folk revival and spent a long career championing folk music as both a vital heritage and a catalyst for social change, died on Monday in Manhattan. He was 94.

His death, at New York-Presbyterian Hospital, was confirmed by his grandson Kitama Cahill Jackson.

Mr. Seeger's career carried him from singing at labor rallies to the top 10 college auditoriums to folk festivals, and from a conviction for contempt of Congress (after defying the House Un-American Activities Committee in the 1950s) to performing on the steps of the Lincoln Memorial at an inaugural concert for Barack Obama.

For Mr. Seeger, folk music and a sense of community were inseparable, and where he saw a community, he saw the possibility of political action.

In his hearty tenor, Mr. Seeger, a beanpole of a man who most often played 12-string guitar or five-string banjo, sang topical songs and children's songs, humorous tunes and earnest anthems, always encouraging listeners to join in. His agenda paralleled the concerns of the American left: He sang for the labor movement in the 1940s and 1950s, for civil rights marches and anti-Vietnam War rallies in the 1960s, and for environmental and antiwar causes in the 1970s and beyond. "We Shall Overcome," which Mr. Seeger adapted from old spirituals, became a civil rights anthem.

Mr. Seeger was a prime mover in the folk revival that transformed popular music in the 1950s. As a member of the Weavers, he sang hits including Lead Belly's "Goodnight, Irene" — which reached No. 1 — and "If I Had a Hammer," which he wrote with the group's Lee Hays. Another of Mr. Seeger's songs, "Where Have All the Flowers Gone?," became an antiwar standard. And in 1965, the Byrds had a No. 1 hit with a folk-rock version of "Turn! Turn! Turn!," Mr. Seeger's setting of a passage from the Book of Ecclesiastes.

Mr. Seeger was a mentor to younger folk and topical singers in the '50s and '60s, among them Bob Dylan, Don McLean and Bernice Johnson Reagon, who founded Sweet Honey in the Rock. Decades later, Bruce Springsteen drew the songs on his 2006 album, "We Shall Overcome: The Seeger Sessions," from Mr. Seeger's repertoire of traditional music about a turbulent American experience, and in 2009 he performed Woody Guthrie's "This Land Is Your Land" with Mr. Seeger at the Obama inaugural. At a Madison Square Garden concert celebrating Mr. Seeger's 90th birthday, Mr. Springsteen introduced him as "a living archive of America's music and conscience, a testament of the power of song and culture to nudge history along."

Although he recorded more than 100 albums, Mr. Seeger distrusted commercialism and was never comfortable with the idea of stardom. He invariably tried to use his celebrity to bring attention and contributions to the causes that moved him, or to the traditional songs he wanted to preserve.

Mr. Seeger saw himself as part of a continuing folk tradition, constantly recycling and revising music that had been honed by time.

During the McCarthy era Mr. Seeger's political affiliations, including membership in the Communist Party in the 1940s, led to his being blacklisted and later indicted for contempt of Congress. The pressure broke

up the Weavers, and Mr. Seeger disappeared from commercial television until the late 1960s. But he never stopped recording, performing and listening to songs from ordinary people. Through the decades, his songs have become part of America's folklore.

"My job," he said in 2009, "is to show folks there's a lot of good music in this world, and if used right it may help to save the planet."

Peter Seeger was born on May 3, 1919, to Charles Seeger, a musicologist, and Constance de Clyver Edson Seeger, a concert violinist. His parents later divorced.

He began playing the ukulele while attending Avon Old Farms, a private boarding school in Connecticut. His father and his stepmother, the composer Ruth Crawford Seeger, were collecting and transcribing rural American folk music, as were folklorists like John and Alan Lomax. He heard the five-string banjo, which would become his main instrument, when his father took him to a square-dance festival in North Carolina.

Young Pete became enthralled by rural traditions. "I liked the strident vocal tone of the singers, the vigorous dancing," he is quoted in "How Can I Keep From Singing," a biography by David Dunaway. "The words of the songs had all the meat of life in them. Their humor had a bite, it was not trivial. Their tragedy was real, not sentimental."

Planning to be a journalist, Mr. Seeger attended Harvard, where he founded a radical newspaper and joined the Young Communist League. After two years, he dropped out and came to New York City, where Mr. Lomax introduced him to the blues singer Huddie Ledbetter, known as Lead Belly. Mr. Lomax also helped Mr. Seeger find a job cataloging and transcribing music at the Archive of American Folk Song at the Library of Congress.

Mr. Seeger met Mr. Guthrie, a songwriter who shared his love of vernacular music and agitprop ambitions, in 1940, when they performed at a benefit concert for migrant California workers. Traveling across the United States with Mr. Guthrie, Mr. Seeger picked up some of his style and repertoire. He also hitchhiked and hopped freight trains by himself, trading and learning songs.

When he returned to New York later in 1940, Mr. Seeger made his first albums. He, Millard Lampell and Mr. Hays founded the Almanac Singers, who performed union songs and, until Germany invaded the Soviet Union, antiwar songs, following the Communist Party line. Mr. Guthrie soon joined the group.

During World War II the Almanac Singers's repertoire turned to patriotic, antifascist songs, bringing them a broad audience, including a prime-time national radio spot. But the group's earlier antiwar songs, the target of an F.B.I. investigation, came to light, and the group's career plummeted.

Before the group completely dissolved, however, Mr. Seeger was drafted in 1942 and assigned to a unit of performers. He married Toshi-Aline Ohta while on furlough in 1943.

When he returned from the war he founded People's Songs Inc., which published political songs and presented concerts for several years before going bankrupt. He also started his nightclub career, performing at the Village Vanguard in Greenwich Village. Mr. Seeger and Paul Robeson toured with the campaign of Henry Wallace, the Progressive Party presidential candidate, in 1948.

Mr. Seeger invested \$1,700 in 17 acres of land overlooking the Hudson River in Beacon and began building a log cabin there in the late 1940s. In 1949, Mr. Seeger, Mr. Hays, Ronnie Gilbert and Fred Hellerman started working together as the Weavers. They were signed to Pecca Records by Gordon Jenkins, the company's music director and an arranger for Frank Sinatra. With Mr. Jenkins's elaborate orchestral arrangements, the group recorded a repertoire that stretched from "If I Had a Hammer" to a South African song, "Wimoweh" (the title was Mr. Seeger's mishearing of "Mbube," the name of a South African hit by Solomon Linda), to an Israeli soldiers' song, "Tzena, Tzena, Tzena," to a cleaned-up version of Lead Belly's "Goodnight, Irene." Onstage, they also sang more pointed topical songs.

In 1950 and 1951 the Weavers were national stars, with hit singles and engagements at major nightclubs. Their hits included "Kisses Sweeter Than Wine" and Mr. Guthrie's "So Long (It's Been Good to Know Yuh)," and they sold an estimated four million singles and albums.

But "Red Channels," an influential pamphlet listing performers with suspected Communist ties, appeared in June 1950 and listed Mr. Seeger, although by then he had quit the Communist Party. He would later criticize himself for having not left the party sooner, though he continued to describe himself as a "communist with a small 'c.'"

Despite the Weavers' commercial success, by the summer of 1951 the "Red Channels" citation and leaks from F.B.I. files had led to the cancellation of television appearances. In 1951, the Senate Internal Security Subcommittee investigated the Weavers for sedition. And in February 1952, a former member of People's Songs testified before the House Un-American Activities Committee that three of the four Weavers were members of the Communist Party.

As engagements dried up the Weavers disbanded, though they reunited periodically in the mid-1950s. After the group recorded an advertisement for Lucky Strike cigarettes, Mr. Seeger left, citing his objection to promoting tobacco use.

Shut out of national exposure, Mr. Seeger returned primarily to solo concerts, touring college coffeehouses, churches, schools and summer camps, building an audience for folk music among young people. He started to write a long-running column for the folk-song magazine Sing Out! And he recorded prolifically for the independent Folkways label, singing everything from children's songs to Spanish Civil War anthems.

In 1955 he was subpoenaed by the House Un-American Activities Committee, where he testified, "I feel that in my whole life I have never done anything of any conspiratorial nature." He also stated: "I am not going to answer any questions as to my association, my philosophical or religious beliefs or my political beliefs, or how I voted in any election, or any of these private affairs. I think these are very improper questions for any American to be asked, especially under such compulsion as this."

Mr. Seeger offered to sing the songs mentioned by the congressman who questioned him. The committee declined.

Mr. Seeger was indicted in 1957 on 10 counts of contempt of Congress. He was convicted in 1961 and sentenced to a year in prison, but the next year an appeals court dismissed the indictment as faulty. After the indictment, Mr. Seeger's concerts were often picketed by the John Birch Society and other rightist groups. "All those protests did was sell tickets and get me free publicity," he later said. "The more they protested, the bigger the audiences became."

By then, the folk revival was prospering. In 1959, Mr. Seeger was among the founders of the Newport Folk Festival. The Kingston Trio's version of Mr. Seeger's "Where Have All the Flowers Gone?" reached the Top 40 in 1962, soon followed by Peter, Paul and Mary's version of "If I Had a Hammer," which rose to the Top 10.

Mr. Seeger was signed to a major label, Columbia Records, in 1961, but he remained unwelcome on network television. "Hootenanny," an early-1960s show on ABC that capitalized on the folk revival, refused to book Mr. Seeger, causing other performers (including Bob Dylan, Joan Baez and Peter, Paul and Mary) to boycott it. "Hootenanny" eventually offered to present Mr. Seeger if he would sign a loyalty oath. He refused.

He toured the world, performing and collecting folk songs, in 1963, and returned to serenade civil rights advocates, who had made a rallying song of his "We Shall Overcome."

Like many of Mr. Seeger's songs, "We Shall Overcome" had convoluted traditional roots. It was based on old gospel songs, primarily "I'll Overcome," a hymn that striking tobacco workers had sung on a picket line in

South Carolina. A slower version, "We Will Overcome," was collected from one of the workers, Lucille Simmons, by Zilphia Horton, the musical director of the Highlander Folk School in Monteagle, Tenn., which trained union organizers.

Ms. Horton taught it to Mr. Seeger, and her version of "We Will Overcome" was published in the People's Songs newsletter. Mr. Seeger changed "We will" to "We shall" and added verses ("We'll walk hand in hand"). He taught it to the singers Frank Hamilton, who would join the Weavers in 1962, and Guy Carawan, who became musical director at Highlander in the '50s. Mr. Carawan taught the song to the Student Nonviolent Coordinating Committee at its founding convention.

The song was copyrighted by Mr. Seeger, Mr. Hamilton, Mr. Carawan and Ms. Horton. "At that time we didn't know Lucille Simmons's name," Mr. Seeger wrote in his 1993 autobiography, "Where Have All the Flowers Gone." All of the song's royalties go to the "We Shall Overcome" Fund, administered by what is now the Highlander Research and Education Center, which provides grants to African-Americans organizing in the South.

Along with many elders of the protest-song movement, Mr. Seeger felt betrayed when Bob Dylan appeared at the 1965 Newport Folk Festival with a loud electric blues band. Reports emerged that Mr. Seeger had tried to cut the power cable with an ax, but witnesses including the producer George Wein and the festival's production manager, Joe Boyd (later a leading folk-rock record producer), said he did not go that far. (An ax was available, however. A group of prisoners had used it while singing a logging song.)

As the United States grew divided over the Vietnam War, Mr. Seeger wrote "Waist Deep in the Big Muddy," an antiwar song with the refrain "The big fool says to push on." He performed the song during a taping of "The Smothers Brothers Comedy Hour" in September 1967, but his return to network television, but it was cut before the show was broadcast. After the Smothers Brothers publicized the censorship, Mr. Seeger returned to perform the song for broadcast in February 1968.

During the late 1960s Mr. Seeger started an improbable project: a sailing ship that would crusade for cleaner water on the Hudson River. Between other benefit concerts he raised money to build the Clearwater, a 106-foot sloop that was launched in June 1969 with a crew of musicians. The ship became a symbol and a rallying point for antipollution efforts and education.

In May 2009, after decades of litigation and environmental activism led by Mr. Seeger's nonprofit environmental organization, Hudson River Sloop Clearwater, General Electric began dredging sediment containing PCBs it had dumped into the Hudson. Mr. Seeger and his wife also helped organize a yearly summer folk festival named after the Clearwater.

In the '80s and '90s Mr. Seeger toured regularly with Arlo Guthrie, Woody's son, and continued to lead singalongs and perform benefit concerts. Recognition and awards arrived. He was elected to the Songwriters Hall of Fame in 1972, and in 1993 he was given a lifetime achievement Grammy Award. In 1994, he was given a Kennedy Center Honor and President Bill Clinton handed him the National Medal of Arts, America's highest arts honor, given by the National Endowment for the Arts. In 1999, he traveled to Cuba to receive the Order of Félix Varela, Cuba's highest cultural award, for his "humanistic and artistic work in defense of the environment and against racism."

In 1996, Mr. Seeger was inducted into the Rock and Roll Hall of Fame as an early influence. Arlo Guthrie, who paid tribute at the ceremony, mentioned that the Weavers' hit "Goodnight, Irene" reached No. 1, only to add, "I can't think of a single event in Pete's life that is probably less important to him." Mr. Seeger made no acceptance speech, but he did lead a singalong of "Goodnight, Irene," flanked by Stevie Wonder, David Byrne and members of the Jefferson Airplane.

Mr. Seeger won Grammy Awards for best traditional folk album in 1967, for the album "Pete," and in

2009, for the album "At 89." He also won a Grammy in the children's music category in 2011 for "Tomorrow's Children."

Mr. Seeger kept performing into the 21st century, despite a flagging voice; audiences happily sang along more loudly. He celebrated his 90th birthday, on May 3, 2009, at a Madison Square Garden concert — a benefit for Hudson River Sloop Clearwater — with Mr. Springsteen, Dave Matthews, John Mellencamp, Joan Baez, Ani DiFranco, Roger McGuinn of the Byrds, Emmylou Harris and dozens of other musicians paying tribute. That August he was back in Newport for the 50th anniversary of the Newport Folk Festival.

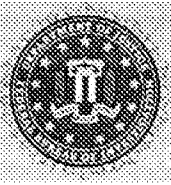
Mr. Seeger's wife, Toshi, died in 2013, days before the couple's 70th anniversary. Survivors include his son, Daniel; his daughters, Mika and Tinya; a half-sister, Peggy, also a folk singer; and six grandchildren, including the musician Tao Rodriguez-Seeger, who performed with him at the Obama inaugural. His half-brother Mike Seeger, a folklorist and performer who founded the New Lost City Ramblers, died in 2009.

Through the years, Mr. Seeger remained determinedly optimistic. "The key to the future of the world," he said in 1994, "is finding the optimistic stories and letting them be known."

Gary Mullany and Emma G. Fitzsimmons contributed reporting.

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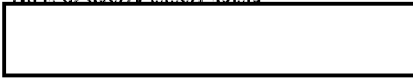
U.S. Department of Justice



Federal Bureau of Investigation
Washington, D.C. 20535

February 10, 2014

MR. JASON LEOPOLD



b6

FOIPA Request No.: 1251656-000
Subject: SEEGER, PETE

Dear Mr. Leopold:

This is in response to your Freedom of Information Act (FOIA) request.

A search of the Central Records System maintained at FBI Headquarters indicated that records potentially responsive to the FOIA have been sent to the National Archives and Records Administration (NARA). Since these records were not reviewed, it is not known if they are actually responsive to the FOIA.

If you wish to review these potentially responsive records, send your request to NARA at the following address using file number 100-HQ-200845 as a reference:

National Archives and Records Administration
8601 Adelphi Road
College Park, MD 20740-6001

By standard FBI practice and pursuant to FOIA exemption (b)(7)(E) and Privacy Act exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)], this response neither confirms nor denies the existence of your subject's name on any watch lists.

It is unnecessary to adjudicate your fee waiver because no responsive main file records were processed.

For your information, Congress excluded three discrete categories of law enforcement and national security records from the requirements of the FOIA. See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). This response is limited to those records that are subject to the requirements of the FOIA. This is a standard notification that is given to all our requesters and should not be taken as an indication that excluded records do, or do not, exist.

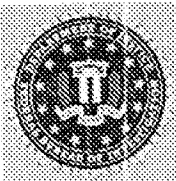
You may file an appeal by writing to the Director, Office of Information Policy (OIP), U.S. Department of Justice, 1425 New York Ave., NW, Suite 11050, Washington, D.C. 20530-0001, or you may submit an appeal through OIP's eFOIA portal at <http://www.justice.gov/oip/efoia-portal.html>. Your appeal must be received by OIP within sixty (60) days from the date of this letter in order to be considered timely. The envelope and the letter should be clearly marked "Freedom of Information Appeal." Please cite the FOIPA Request Number in any correspondence to us for proper identification of your request.

Enclosed for your information is a copy of the FBI Fact Sheet.

Sincerely,

David M. Hardy
Section Chief,
Record/Information
Dissemination Section
Records Management Division

Enclosure



FBI FACT SHEET

- The primary functions of the FBI are national security and law enforcement.
- The FBI does not keep a file on every citizen of the United States.
- The FBI was not established until 1908 and we have very few records prior to the 1920s.
- FBI files generally contain reports of FBI investigations of a wide range of matters, including counterterrorism, counter-intelligence, cyber crime, public corruption, civil rights, organized crime, white collar crime, major thefts, violent crime, and applicants.
- The FBI does not issue clearances or non-clearances for anyone other than its own personnel or persons having access to FBI facilities. Background investigations for security clearances are conducted by many different Government agencies. Persons who received a clearance while in the military or employed with some other government agency should contact that entity. Most government agencies have websites which are accessible on the internet which have their contact information.
- A criminal history summary check or "rap sheet" is NOT the same as an "FBI file." It is a listing of information taken from fingerprint cards and related documents submitted to the FBI in connection with arrests, federal employment, naturalization or military service. The subject of a "rap sheet" may obtain a copy by submitting a written request to FBI, Criminal Justice Information Services (CJIS) Division, Record Request, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. Along with a specific written request, the individual must submit a new full set of his/her fingerprints in order to locate the record, establish positive identification, and ensure that an individual's records are not disseminated to an unauthorized person. The fingerprint submission must include the subject's name, date and place of birth. There is a required fee of \$18 for this service, which must be submitted by money order or certified check made payable to the Treasury of the United States. A credit card payment option is also available. Forms for this option and additional directions may be obtained by accessing the FBI Web site at www.fbi.gov/about-us/cjis/background-checks/background_checks.
- The National Name Check Program (NNCP) conducts a search of the FBI's Universal Index (UNI) to identify any information contained in FBI records that may be associated with an individual and provides the results of that search to a requesting federal, state or local agency. Names are searched in a multitude of combinations and phonetic spellings to ensure all records are located. The NNCP also searches for both "main" and "cross reference" files. A main file is an entry that carries the name corresponding to the subject of a file, while a cross reference is merely a mention of an individual contained in a file. The results from a search of this magnitude can result in several "hits" and "idents" on an individual. In each instance where UNI has identified a name variation or reference, information must be reviewed to determine if it is applicable to the individual in question.
- The Record/Information Dissemination Section (RIDS) searches for records and provides copies of FBI files responsive to Freedom of Information or Privacy Act (FOIPA) requests for information. RIDS provides responsive documents to requesters seeking "reasonably described information." For a FOIPA search, the subject's name, event, activity, or business is searched to determine whether there is an associated investigative file. This is called a "main file search" and differs from the NNCP search.

FOR GENERAL INFORMATION ABOUT THE FBI, VISIT OUR WEBSITE AT
www.fbi.gov

The following information about Pete Seeger is provided in order to enable the FBI to locate the requested records. It is not intended to limit the scope of this request.

Pete Seeger was a folk singer and activist. According to the New York Times, "During the McCarthy era Mr. Seeger's political affiliations, including membership in the Communist Party in the 1940s, led to his being blacklisted and later indicted for contempt of Congress. The pressure broke up the Weavers, and Mr. Seeger disappeared from commercial television until the late 1960s. But he never stopped recording, performing and listening to songs from ordinary people. Through the decades, his songs have become part of America's folklore."

Moreover, "During World War II the Almanac Singers's (of which Seeger was a member) repertory turned to patriotic, antifascist songs, bringing them a broad audience, including a prime-time national radio spot. But the group's earlier antiwar songs, the target of an F.B.I. investigation, came to light, and the group's career plummeted."

"Despite the Weavers' commercial success, by the summer of 1951 the "Red Channels" citation and leaks from F.B.I. files had led to the cancellation of television appearances. In 1951, the Senate Internal Security Subcommittee investigated the Weavers for sedition. And in February 1952, a former member of People's Songs testified before the House Un-American Activities Committee that three of the four Weavers were members of the Communist Party."

"In 1955 he was subpoenaed by the House Un-American Activities Committee, where he testified, "I feel that in my whole life I have never done anything of any conspiratorial nature." He also stated: "I am not going to answer any questions as to my association, my philosophical or religious beliefs or my political beliefs, or how I voted in any election, or any of these private affairs. I think these are very improper questions for any American to be asked, especially under such compulsion as this." Mr. Seeger offered to sing the songs mentioned by the congressmen who questioned him. The committee declined."¹

REQUEST FOR EXPEDITED PROCESSING

Under 28 C.F.R. 16.5(d)(1)(iv), a request is to be given expedited processing when it involves "[a] matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence." I am seeking expedited treatment for this request.

1. *The request involves a matter of widespread and exceptional media interest*

¹ <http://www.nytimes.com/2014/01/29/arts/music/pete-seeger-songwriter-and->